

Richard Sulenski

February 27, 2007

Graham v. Best Buy Stores, L.P., et al.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL GRAHAM,

Plaintiff,

vs

Case No. 1:06-CV-1532

Judge Christopher A. Boyko

BEST BUY STORES, L.P.,
et al.,

Defendants.

DEPOSITION OF RICHARD SULENSKI

TUESDAY, FEBRUARY 27, 2007

Deposition of RICHARD SULENSKI, a Witness
herein, called by counsel on behalf of the
Plaintiff for examination under the statute,
taken before me, Vivian L. Gordon, a Registered
Diplomate Reporter and Notary Public in and for
the State of Ohio, pursuant to agreement of
counsel, at the offices of Schuster & Simmons,
2913 Clinton Avenue, Cleveland, Ohio, commencing
at 12:45 o'clock p.m. on the day and date above
set forth.

EXHIBIT

H

February 27, 2007

Richard Sulenski

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1 APPEARANCES:

2 On behalf of the Plaintiff

3 Schuster & Simmons Co., LPA

4 KAMI D. ROWLES, ESQ.

5 The Bevlin House

6 2913 Clinton Avenue

7 Cleveland, Ohio 44113

8

9 On behalf of the Defendant

10 Vorys, Sater, Seymour and Pease, LLP

11 DAVID A. CAMPBELL, ESQ.

12 MATTHEW D. BESSER, ESQ.

13 2100 One Cleveland Center

14 1375 East Ninth Street

15 Cleveland, Ohio 44114

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1 RICHARD SULENSKI, a witness herein, called
2 for examination, as provided by the Federal
3 Rules of Civil Procedure, being by me first duly
4 sworn, as hereinafter certified, was deposed and
5 said as follows:

6 EXAMINATION OF RICHARD SULENSKI

7 BY MS. ROWLES:

8 Q. Let the record reflect we are here
9 for the deposition of Rick Sulenski. Is that
10 pronounced right?

11 A. Yes.

12 Q. Can you state your full name for the
13 record, please.

14 A. Richard Sulenski.

15 Q. Will you spell your last name.

16 A. S-U-L-E-N-S-K-I.

17 Q. Have you ever been deposed before?

18 A. No, I have not.

19 Q. Have you ever been a witness in a
20 case, any kind of case?

21 A. No.

22 Q. Ever been a party to any case?

23 A. No.

24 Q. I just want to go over a few ground
25 rules since you haven't been deposed before.

1 A. Factually?

2 Q. Yes.

3 A. By the fact that it was a theft or
4 perception?

5 Q. What led you to believe that a theft
6 had occurred? Did someone tell you that a
7 theft had occurred?

8 A. No. I believe in following up that
9 night or after working through this over/short
10 checklist, upon inspection of the register, I
11 noticed that the key cylinder had been damaged.

12 Q. Okay. And how had it been damaged?

13 A. It looked like it had been marked
14 up, scratched and dented I guess is the best way
15 to put it.

16 Q. What did you do with the register?
17 Did you move the register?

18 A. No, I did not.

19 Q. You left it where it was?

20 A. Yes.

21 Q. Did you do anything to prevent
22 anyone else from touching the register?

23 A. I don't believe so.

24 Q. Did you advise Mr. Collins at any
25 time about the register, the damage you had

1 noticed, observed to the register?

2 A. I don't recall, but I have to assume
3 that I did.

4 Q. After you noticed that the register
5 was damaged, did any employee use the register
6 to ring up sales transactions?

7 A. I don't know for sure.

8 Q. So you observed that the register
9 had been damaged and you didn't take any steps
10 to prevent the register from not being used?

11 A. I don't recall any steps.

12 Q. Okay. After your first meeting with
13 Mr. Collins, did he advise you as to any steps
14 you should take?

15 A. When? The first interaction with
16 Mr. Collins?

17 Q. You said you made a phone call but
18 you don't remember if you had a conversation or
19 not.

20 A. Right.

21 Q. We are talking about Mr. Collins
22 came to the store and you and he were in the
23 loss prevention office. Did he advise you of
24 any steps to take?

25 A. That is my first interaction with

1 A. I don't know.

2 Q. Do you know what department he
3 worked in in 2005?

4 A. I do not.

5 Q. Okay. And you recognize the lady
6 sitting next to him?

7 A. Correct.

8 Q. Who is that?

9 A. Adrian Sadagy.

10 Q. Who is she?

11 A. She is an assistant manager in one
12 of the stores.

13 Q. Is that how you know her?

14 A. Yes. Well, she previously was a
15 district recruiter, I believe was her title, and
16 I worked with her in the district office for a
17 short period of time.

18 Q. In 2005, can you describe the type
19 of relationship you had with Ty?

20 A. No relationship.

21 Q. Did you just know him through work?

22 A. Yes.

23 Q. What about Adrian?

24 A. The same thing.

25 Q. Do you recognize any other person in

1 this photograph?

2 A. Very hard to see the other people.

3 Q. Here. Do you want to look at the
4 colored? Let's look at the colored version.

5 A. Nobody that I'm sure of.

6 Q. Okay. And is this one of the photos
7 that was shown to you by Mr. Collins?

8 A. I don't recall. I don't believe so.

9 - - - - -

10 (Thereupon, SULENSKI Deposition
11 Exhibit I was marked for
12 purposes of
13 identification.)

14 - - - - -

15 MS. ROWLES: I'll have you look at
16 the colored. It will make it easier.

17 Q. Can you identify what's been handed
18 to you as Exhibit I?

19 A. A photograph.

20 Q. Have you seen this photograph before
21 today?

22 A. I don't believe so.

23 Q. Do you recognize any of the
24 individuals pictured in this photograph?

25 A. I'm not sure, but I think I know the

1 person on the left.

2 Q. Who do you think this person on the
3 left is?

4 A. I believe it's Christina Fejas.

5 Q. The last name?

6 A. Fejas.

7 Q. Okay. And how do you know her?

8 A. She was up until two months ago the
9 operations manager at Elyria.

10 Q. Was she the operations manager in
11 2005?

12 A. No.

13 Q. What position did she hold in 2005?

14 A. I don't recall. I don't know. I
15 think she worked in Macedonia, though.

16 Q. Okay.

17 A. I think she was part of the grand
18 opening staff.

19 Q. Do you remember this as one of the
20 photos that Mr. Collins showed to you?

21 A. I have never seen this photo before.

22 Q. Okay. Do you know who Michael
23 Graham is?

24 A. In 2005?

25 Q. In 2005 did you know who Michael

1 Graham was?

2 A. No, I did not.

3 Q. To your knowledge had you ever seen
4 Michael Graham in 2005 or prior?

5 A. I can't answer that. I don't know.

6 Q. Let me apologize if I asked you
7 before. After the meeting you had with Tim
8 Collins that we discussed, did you have any
9 other meetings with Tim Collins with regard to
10 this theft?

11 A. I don't recall any.

12 Q. You said you don't recall speaking
13 with the police?

14 A. No, I don't.

15 - - - - -

16 (Thereupon, SULENSKI Deposition
17 Exhibit J was marked for
18 purposes of
19 identification.)

20 - - - - -

21 Q. Can you identify what's been handed
22 to you as Exhibit J?

23 A. Elyria Police Department report of
24 some kind.

25 Q. Okay. Will you turn to the -- hold

1 being an African-American male, medium height,
2 medium build, I think that's what you said?

3 A. Yes.

4 Q. The individual you had a
5 conversation with in the computer department,
6 what was the approximate age of that person?

7 A. I don't recall.

8 Q. Was it a teenager? Was it a 50 year
9 old man?

10 A. Neither.

11 Q. Can you guess at an age? I don't
12 want you to guess.

13 A. In between teenager and 55.

14 Q. Okay.

15 A. I have learned working in retail for
16 as long as I have, that guessing people's ages
17 isn't a smart thing to do.

18 Q. Probably not.

19 When Mr. Collins showed you these
20 photographs, did he comment as to anybody in the
21 photograph?

22 A. I don't recall any comments.

23 Q. Did anyone else make any comments as
24 to the people in the photographs?

25 A. I don't believe anybody else was

CERTIFICATE

State of Ohio,

SS:

County of Cuyahoga.

I, Vivian L. Gordon, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named RICK SULENSKI was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony as above set forth was by me reduced to stenotypy, afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony.

I do further certify that this deposition was taken at the time and place specified and was completed without adjournment; that I am not a relative or attorney for either party or otherwise interested in the event of this action. I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Cleveland, Ohio, on this 6th day of March, 2007.



Vivian L. Gordon, Notary Public
Within and for the State of Ohio

My commission expires June 8, 2009.